

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
BASHAWN CLOVER,

Plaintiff,

-against-

RIKERS ISLAND, et. al.,

Defendants.
-----x

10 Civ. 5356 (PKC)(FM)

ORDER ADOPTING REPORT
AND RECOMMENDATION

P. KEVIN CASTEL, District Judge:

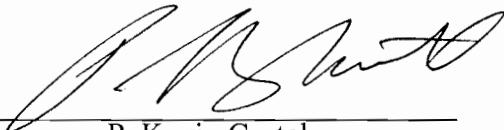
Magistrate Judge Frank Maas, to whom this case was referred for general pretrial supervision, issued an order dated January 31, 2011 giving plaintiff until April 1, 2011 to show cause why his Complaint ought not be dismissed for failure to comply with Rule 4(m), Fed. R. Civ. P. On February 2, 2011, the order was returned as undeliverable. In an effort to locate plaintiff, Magistrate Judge Maas' Chambers searched the New York City Department of Correction, the New York State Department of Correctional Services and the Bureau of Prisons on-line prisoner locator services, but was unable to locate him. Having no way to contact plaintiff, Magistrate Judge Maas issued a Report and Recommendation, dated March 1, 2011, recommending that the action be dismissed without prejudice (the "R & R"). In an abundance of caution, Magistrate Judge Maas sent a copy of the R & R to the plaintiff's last known address at the M.D.C.

The R & R advised the plaintiff that he had fourteen days from service of the R & R to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The R & R expressly called plaintiff's attention to Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1). Plaintiff received clear notice of the

consequences of the failure to object and has waived the right to object to the R & R or obtain appellate review. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992), *cert. denied*, 506 U.S. 1038 (1992); see also Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008).

The R & R is adopted and the action is dismissed without prejudice. The Clerk is directed to enter judgment for the defendants.

SO ORDERED.



P. Kevin Castel
United States District Judge

Dated: New York, New York
March 22, 2011